

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA



FORMS FOR FILING CASES *PRO SE* (Representing Yourself)

Revised 3/22/2001

ATTACHMENTS

FORM A: *Pro Se* [Non-Prisoner] Complaint Form

FORM B: Civil Cover Sheet (Form JS-44)

FORM C: Application to Proceed Without Prepayment of Fees and Affidavit (IFP Application)

FORM D: *Pro Se* Party's Answers to Rule 26.01 Interrogatories

FORM E: Summons in a Civil Case

FORM F: Notice of Lawsuit and Request for Waiver of Service for Summons

FORM G: Waiver of Service of Summons

FORM H: Consent to Proceed before a United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
***Pro Se* [Non-Prisoner] Complaint Form**

[Enter the full name of the plaintiff in this action]

) Civil Action No. _____
) (to be assigned by Clerk)

V.

[Enter the full name of each defendant in this action. If possible, please list only one defendant per line.]

[illegible][illegible]

If allowed by statute, do you wish to have a trial by jury? Yes _____ No _____

[If any answer requires additional space, please use additional paper and attach hereto.]

I. PREVIOUS LAWSUITS

A. *Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?*

Yes _____ No _____

B. *If your answer to A is Yes, describe the lawsuit in the space below. [If more than one lawsuit, describe on another sheet of paper using the same outline.]*

1. *Parties to this previous lawsuit:*

Plaintiff: _____

Defendant(s): _____

2. *Court:* _____
(If federal court, name the district; if state court, name the county)

3. *Docket Number:* _____

4. *Name(s) of Judge(s) to whom case was assigned:* _____

5. *Status of Case:* _____
(For example, was the case dismissed? Settled? Appealed? Still Pending?)

6. *Date lawsuit was filed:* _____

7. *Date of disposition (if concluded):* _____

C. *Do you have any other lawsuit(s) pending in the federal court in South Carolina?*

Yes _____ No _____

II. PARTIES

In Item A below, place your name and address in the space provided. [If additional plaintiffs, do the same on another sheet of paper.]

A. *Name of Plaintiff:* _____

Address: _____

In Item B below, place the full name of the defendant, and his/her/its address, in the space provided. Use Item C for additional defendants, if any.

B. *Name of Defendant:* _____

Address: _____

C. *Additional Defendants (provide the same information for each defendant as listed in Item B above):*

III. STATEMENT OF CLAIM

*State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the name(s) of other persons involved, dates, and places. **Do not give any legal arguments or cite any cases or statutes.** If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets of paper if necessary.*

[illegible]

IV. RELIEF.

State briefly and exactly what you want this court to do for you.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____.

Signature of Plaintiff

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- G 1 U.S. Government Plaintiff
- G 2 U.S. Government Defendant
- G 3 Federal Question (U.S. Government Not a Party)
- G 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for and One Box for Defendant)

- | | | | | |
|---|-----|-----|---|---------|
| | DEF | | PTF | DEF |
| Citizen of This State | G 1 | G 1 | Incorporated or Principal Place of Business In This State | G 4 G 4 |
| Citizen of Another State | G 2 | G 2 | Incorporated and Principal of Business In Another State | G 5 G 5 |
| Citizen or Subject of a Foreign Country | G 3 | G 3 | Foreign Nation | G 6 G 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
G 110 Insurance	PERSONAL INJURY	G 610 Agriculture	G 422 Appeal 28 USC 158	G 400 State Reapportionment
G 120 Marine	G 310 Airplane	G 620 Other Food & Drug	G 423 Withdrawal 28 USC 157	G 410 Antitrust
G 130 Miller Act	G 315 Airplane Product Liability	G 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	G 430 Banks and Banking
G 140 Negotiable Instrument	G 320 Assault, Libel & Slander	G 630 Liquor Laws	G 820 Copyrights	G 450 Commerce/ICC Rates/etc.
G 150 Recovery of Overpayment & Enforcement of Judgment	G 330 Federal Employers' Liability	G 640 R.R. & Truck	G 830 Patent	G 460 Deportation
G 151 Medicare Act	G 340 Marine	G 650 Airline Regs.	G 840 Trademark	G 470 Racketeer Influenced and Corrupt Organizations
G 152 Recovery of Defaulted Student Loans (Excl. Veterans)	G 345 Marine Product Liability	G 660 Occupational Safety/Health	SOCIAL SECURITY	G 810 Selective Service
G 153 Recovery of Overpayment of Veteran's Benefits	G 350 Motor Vehicle	G 690 Other	G 861 HIA (1395ff)	G 850 Securities/Commodities/Exchange
G 160 Stockholders' Suits	G 355 Motor Vehicle Product Liability	LABOR	G 862 Black Lung (923)	G 875 Customer Challenge 12 USC 3410
G 190 Other Contract	G 360 Other Personal Injury	G 710 Fair Labor Standards Act	G 863 DIWC/DIWW (405(g))	G 891 Agricultural Acts
G 195 Contract Product Liability		G 720 Labor/Mgmt. Relations	G 864 SSID Title XVI	G 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	G 730 Labor/Mgmt. Reporting & Disclosure Act	G 865 RSI (405(g))	G 893 Environmental Matters
G 210 Land Condemnation	G 441 Voting	G 740 Railway Labor Act	FEDERAL TAX SUITS	G 894 Energy Allocation Act
G 220 Foreclosure	G 442 Employment	G 790 Other Labor Litigation	G 870 Taxes (U.S. Plaintiff or Defendant)	G 895 Freedom of Information Act
G 230 Rent Lease & Ejectment	G 443 Housing/Accommodations	G 791 Empl. Ret. Inc. Security Act	G 871 IRS—Third Party 26 USC 7609	G 900 Appeal of Fee Determination
G 240 Torts to Land	G 444 Welfare			Under Equal Access to Justice
G 245 Tort Product Liability	G 440 Other Civil Rights			G 950 Constitutionality of State Statutes
G 290 All Other Real Property				G 890 Other Statutory Actions
	PRISONER PETITIONS			
	G 510 Motions to Vacate Sentence			
	Habeas Corpus:			
	G 530 General			
	G 535 Death Penalty			
	G 540 Mandamus & Other			
	G 550 Civil Rights			
	G 555 Prison Condition			

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- | | | | | | | |
|-------------------------|------------------------------|-----------------------------------|----------------------------|---|------------------------------|---|
| G 1 Original Proceeding | G 2 Removed from State Court | G 3 Remanded from Appellate Court | G 4 Reinstated or Reopened | G 5 Transferred from another district (specify) | G 6 Multidistrict Litigation | G 7 Appeal to District Judge from Magistrate Judgment |
|-------------------------|------------------------------|-----------------------------------|----------------------------|---|------------------------------|---|

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. REQUESTED IN COMPLAINT: G CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23 CHECK YES only if demanded in complaint: JURY DEMAND: G Yes G No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8 (a), F.R.C.P., which requires that jurisdictions be shown in pleading. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.
(rev. 07/89)

UNITED STATES DISTRICT COURT

District of

SOUTH CAROLINA

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER:

I, _____ declare that I am the (check appropriate box)

G petitioner/plaintiff/movant

G other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? G Yes G No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past **six** months' transactions.

2. Are you currently employed? G Yes G No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- | | | |
|---|-------|------|
| a. Business, profession or other self-employment | G Yes | G No |
| b. Rent payments, interest or dividends | G Yes | G No |
| c. Pensions, annuities or life insurance payments | G Yes | G No |
| d. Disability or workers compensation payments | G Yes | G No |
| e. Gifts or inheritances | G Yes | G No |
| f. Any other sources | G Yes | G No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

AO 240 Reverse (Rev. 9/96)

4. Do you have **any** cash or checking or savings accounts? G Yes G No

If "Yes," state the total amount. _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? G Yes G No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

Date

Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed IFP shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

<hr/>)	C/A No. _____
)	
Plaintiff,)	
vs.)	
)	<i>Pro Se Party's Answers to</i>
)	<i>Rule 26.01 Interrogatories</i>
)	
)	
Defendant(s).)	
<hr/>)	

Please disclose any cases which may be related regardless of whether they are still pending.

Note: Whether cases are related such that they should be assigned to a single judge will be determined by the Clerk of Court based on a determination of whether the cases: arise from the same or identical transactions, happenings or events; involve the identical parties or property; or for any other reason would entail substantial duplication of labor if heard by different judges.

- (E) [*Pro Se* **Defendants** only.] If the defendant is improperly identified, give the proper identification and state whether the party(ies) submitting these responses will accept service of an amended summons and pleading reflecting the correct identification.

- (F) [*Pro Se* **Defendants** only.] If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ *day of* _____, 20____.

Signature of Party Responding

UNITED STATES DISTRICT COURT

District of SOUTH CAROLINA

DIVISION

V. _____, Plaintiff **SUMMONS IN A CIVIL CASE**

CASE

_____, Defendant

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

LARRY W. PROPES

CLERK

DATE

(By) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

Check one box below to indicate appropriate method of service

G Served personally upon the defendant. Place where served: _____

G Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: _____

G Returned unexecuted: _____

G Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date *Signature of Server*

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) _____

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed).
A copy of the complaint is attached to this notice. It has been filed in the United States District Court
for the

(D) _____ District of South Carolina
and has been assigned docket number _____.

This is not a formal summons or notification from the court, but rather my request that you sign and
return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and
an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the
waiver

within (F) _____ days after the date designated below as the date on which this Notice and Request
is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An
extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no
summons will be served on you. The action will then proceed as if you had been served on the date the
waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date
designated below as the date on which this notice is sent (or before 90 days from that date if your address
is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect
formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent
authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to
pay the full costs of such service. In that connection, please read the statement concerning the duty of
parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of
_____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A—Name of individual defendant (or name of officer or agent of corporate defendant)

B—Title, or other relationship of individual to corporate defendant

C—Name of corporate defendant, if any

D—District

E—Docket number of action

F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

A—Name of individual defendant (or name of officer or agent of corporate defendant)

WAIVER OF SERVICE OF SUMMONS

TO: _____
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of _____,
(CAPTION OF ACTION)

which is case number _____ in the United States District Court
(DOCKET NUMBER)

for the _____ District of _____ SOUTH CAROLINA _____.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after _____,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

(DATE)

(SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

_____,
Plaintiff,
v.
_____,
Defendant(s).

C/A No.: _____

**CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provision of Title 28, U.S.C. 636(c), the parties to the above-captioned civil matter hereby voluntarily waive their rights to proceed before a Judge of the United States District Court and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment.

Attorney for Plaintiff _____ Date _____

Attorney for Defendant Date

(Print Attorney Name)

(Print Attorney Name)